

House File 416 - Introduced

HOUSE FILE _____
BY MASCHER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child care by requiring registration or
2 licensing of child care providers regulated by the department
3 of human services and making a penalty applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2242HH 82
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1 1 Section 1. Section 237.1, subsection 4, paragraph d, Code
1 2 2007, is amended to read as follows:
1 3 d. Child care furnished by a child care center, or a child
1 4 development home, ~~or a child care home~~ as defined in section
1 5 237A.1.

1 6 Sec. 2. Section 237A.1, subsection 6, Code 2007, is
1 7 amended by striking the subsection.

1 8 Sec. 3. Section 237A.1, subsection 7, Code 2007, is
1 9 amended to read as follows:

1 10 7. "Child development home" means a person or program
1 11 registered under section 237A.3A that may provide child care
1 12 to ~~six~~ one or more children at any one time.

1 13 Sec. 4. Section 237A.1, subsection 11, Code 2007, is
1 14 amended to read as follows:

1 15 11. "Involvement with child care" means licensed or
1 16 registered under this chapter, employed in a child care
1 17 facility, residing in a child care facility, receiving public
1 18 funding for providing child care, ~~or providing child care as a~~
~~1 19 child care home provider, or residing in a child care home~~
1 20 with a person receiving public funding for providing child
1 21 care.

1 22 Sec. 5. Section 237A.1, Code 2007, is amended by adding
1 23 the following new subsection:

1 24 NEW SUBSECTION. 14A. "Relative" means an adult person who
1 25 is, or was at any time, one of the following relatives of a
1 26 child, by means of blood relationship, marriage, or adoption,
1 27 or is a spouse of one of the following relatives:

- 1 28 a. Grandparent.
- 1 29 b. Great-grandparent.
- 1 30 c. Great-great-grandparent.
- 1 31 d. Stepparent, but not the parent of the stepparent.
- 1 32 e. Sibling.
- 1 33 f. Stepsibling.
- 1 34 g. Sibling by at least the half blood.
- 1 35 h. Uncle or aunt by at least the half blood.
- 2 1 i. Great-uncle or great-aunt.
- 2 2 j. Great-great-uncle or great-great-aunt.
- 2 3 k. First cousin.
- 2 4 l. Nephew or niece.
- 2 5 m. Second cousin.

2 6 Sec. 6. Section 237A.3A, subsection 1, paragraph a, Code
2 7 2007, is amended to read as follows:

2 8 a. A person shall not establish or operate a child
2 9 development home unless the person obtains a certificate of
2 10 registration. The department shall issue a certificate of
2 11 registration upon receipt of a statement from the person or
2 12 upon completion of an inspection conducted by the department
2 13 or a designee of the department verifying that the person
2 14 complies with applicable rules adopted by the department
2 15 pursuant to this section and section 237A.12. However, a
2 16 relative who provides child care to only related children or a
2 17 person providing child care to only children from a single
2 18 unrelated family is not required to register under this
2 19 section.

2 20 Sec. 7. Section 237A.5, subsection 2, paragraph a,
2 21 subparagraph (1), subparagraph subdivision (e), Code 2007, is
2 22 amended to read as follows:

2 23 (e) The person will reside or resides ~~in with~~ a child care
2 24 ~~home that provider who~~ is not ~~registered~~ subject to
2 25 registration or licensure under this chapter but that receives
2 26 public funding for providing child care.

2 27 Sec. 8. Section 237A.5, subsection 2, paragraph b, Code
2 28 2007, is amended to read as follows:

2 29 b. If an individual person subject to a record check is
2 30 being considered for employment by a child care facility ~~or~~
2 31 ~~child care home~~, in lieu of requesting a record check to be
2 32 conducted by the department under paragraph "c", the child
2 33 care facility ~~or child care home~~ may access the single contact
2 34 repository established pursuant to section 135C.33 as
2 35 necessary to conduct a criminal and child abuse record check
3 1 of the individual. A copy of the results of the record check
3 2 conducted through the single contact repository shall also be
3 3 provided to the department. If the record check indicates the
3 4 individual is a person subject to an evaluation, the child
3 5 care facility ~~or child care home~~ may request that the
3 6 department perform an evaluation as provided in this
3 7 subsection. Otherwise, the individual shall not be employed
3 8 by the child care facility ~~or child care home~~.

3 9 Sec. 9. Section 237A.5, subsection 2, paragraph c,
3 10 unnumbered paragraph 2, Code 2007, is amended to read as
3 11 follows:

3 12 Prior to performing an evaluation, the department shall
3 13 notify the affected person, licensee, registrant, or ~~child~~
3 14 ~~care home~~ person applying for or receiving public funding for
3 15 providing child care, that an evaluation will be conducted to
3 16 determine whether prohibition of the person's involvement with
3 17 child care is warranted.

3 18 Sec. 10. Section 237A.5, subsection 2, paragraph e,
3 19 subparagraph (2), Code 2007, is amended to read as follows:

3 20 (2) If, within five years prior to the date of application
3 21 for registration or licensure under this chapter, for
3 22 employment or residence in a child care facility ~~or child care~~
3 23 ~~home~~, or for receipt of public funding for providing child
3 24 care, a person subject to an evaluation has been convicted of
3 25 a controlled substance offense under chapter 124 or has been
3 26 found to have committed physical abuse, the person shall be
3 27 prohibited from involvement with child care for a period of
3 28 five years from the date of conviction or founded abuse.
3 29 After the five-year prohibition period, the person may submit
3 30 an application for registration or licensure under this
3 31 chapter, or to receive public funding for providing child care
3 32 or may request an evaluation, and the department shall perform
3 33 an evaluation and, based upon the criteria in paragraph "d",
3 34 shall determine whether prohibition of the person's
3 35 involvement with child care continues to be warranted.

4 1 Sec. 11. Section 237A.5, subsection 2, paragraph g, Code
4 2 2007, is amended to read as follows:

4 3 g. If it has been determined that a child receiving child
4 4 care from a child care facility or ~~from a child care home~~
4 5 person who receives public funding for providing child care is
4 6 the victim of founded child abuse committed by an employee,
4 7 license or registration holder, ~~child care home provider~~
4 8 person who receives public funding for providing child care or
4 9 an individual residing with that person, or resident of the
4 10 child care facility ~~or child care home~~ for which a report is
4 11 placed in the central registry pursuant to section 232.71D,
4 12 the administrator shall provide notification at the time of
4 13 the determination to the parents, guardians, and custodians of
4 14 children receiving care from the child care facility or ~~child~~
4 15 ~~care home~~ person who receives public funding for providing
4 16 child care. A notification made under this paragraph shall
4 17 identify the type of abuse but shall not identify the victim
4 18 or perpetrator or circumstances of the founded abuse.

4 19 Sec. 12. Section 237A.12, subsection 1, paragraph c, Code
4 20 2007, is amended to read as follows:

4 21 c. The adequacy of activity programs and food services
4 22 available to the children. The department shall not restrict
4 23 the use of or apply nutritional standards to a lunch or other
4 24 meal which is brought to the center, ~~or~~ child development
4 25 home, ~~or child care home~~ by a school-age child for the child's
4 26 consumption.

4 27 Sec. 13. Section 237A.13, subsection 2, Code 2007, is
4 28 amended to read as follows:

4 29 2. Services under the program may be provided ~~in~~ by a
4 30 licensed child care center, a registered child development

4 31 home, the home of a relative, the child's own home by a
4 32 relative or by a provider who is registered or licensed under
4 33 this chapter, a child care home, or in a facility exempt from
4 34 licensing or registration under the definition of child care
4 35 in section 237A.1.

5 1 Sec. 14. Section 237A.19, subsection 2, Code 2007, is
5 2 amended to read as follows:

5 3 2. ~~if registration is required under section 237A.3A, a A~~
5 4 person who establishes, conducts, manages, or operates a child
5 5 development home without registering, ~~or~~ a person who operates
5 6 a child development home contrary to section 237A.5, ~~or a~~
5 7 ~~person who has been prohibited by the department from~~

5 8 ~~involvement with child care but continues that involvement,~~
5 9 commits a simple misdemeanor. Each day of continuing
5 10 violation after conviction, or notice from the department by
5 11 certified mail of the violation, is a separate offense. A
5 12 single charge alleging continuing violation may be made in
5 13 lieu of filing charges for each day of violation.

5 14 Sec. 15. Section 237A.19, subsection 3, Code 2007, is
5 15 amended by striking the subsection.

5 16 Sec. 16. Section 237A.20, Code 2007, is amended to read as
5 17 follows:

5 18 237A.20 INJUNCTION.

5 19 A person who establishes, conducts, manages, or operates a
5 20 center without a license or a child development home without a
5 21 certificate of registration, ~~if registration is required under~~
5 22 ~~section 237A.3A,~~ may be restrained by temporary or permanent

5 23 injunction. A person who has been convicted of a crime
5 24 against a person, a person with a record of founded child
5 25 abuse, or a person who has been prohibited by the department
5 26 from involvement with child care may be restrained by
5 27 temporary or permanent injunction from providing ~~unregistered,~~
5 28 ~~registered,~~ or licensed child care or from other involvement
5 29 with child care. The action may be instituted by the state,
5 30 the county attorney, a political subdivision of the state, or
5 31 an interested person.

5 32 Sec. 17. Section 237A.21, subsection 1, Code 2007, is
5 33 amended to read as follows:

5 34 1. A state child care advisory council is established
5 35 consisting of not more than thirty-five members from urban and
6 1 rural areas across the state. The membership shall include,
6 2 but is not limited to, all of the following persons or
6 3 representatives with an interest in child care: a licensed
6 4 center provider, a registered child development home provider
6 5 from a county with a population of less than twenty-two
6 6 thousand, ~~an unregistered child care home provider,~~ a parent
6 7 of a child in child care, staff members of appropriate
6 8 governmental agencies, and other members as deemed necessary
6 9 by the director. The members are eligible for reimbursement
6 10 of their actual and necessary expenses while engaged in
6 11 performance of their official duties.

6 12 Sec. 18. Section 237A.21, subsection 3, paragraph e, Code
6 13 2007, is amended by striking the paragraph.

6 14 Sec. 19. Section 237A.26, subsection 3, paragraph a, Code
6 15 2007, is amended to read as follows:

6 16 a. Organize assistance to ~~child care homes and~~ child
6 17 development homes utilizing training levels based upon the
6 18 homes' degrees of experience and interest.

6 19 Sec. 20. Section 237A.26, subsection 8, Code 2007, is
6 20 amended to read as follows:

6 21 8. For purposes of improving the quality and consistency
6 22 of data collection, consultation, and other support to ~~child~~
6 23 ~~care home and~~ child development home providers, a resource and

6 24 referral services agency grantee shall coordinate and assist
6 25 with publicly and privately funded efforts administered at the
6 26 community level to provide the support. The support and
6 27 efforts addressed by a grantee may include but are not limited
6 28 to community-funded ~~child care home and~~ child development home
6 29 consultants. Community members involved with the assistance
6 30 may include but are not limited to the efforts of a community
6 31 empowerment area board under chapter 28, and of community
6 32 representatives of education, health, human services,
6 33 business, faith, and public interests.

6 34 Sec. 21. Section 237A.3, Code 2007, is repealed.

6 35 EXPLANATION

7 1 This bill relates to child care regulated by the department
7 2 of human services under Code chapter 237A by requiring
7 3 registration or licensing of child care providers and making
7 4 penalties applicable.

7 5 The bill amends Code section 237A.1, providing definitions,
7 6 to define the term "relative" to mean an adult person who is,

7 7 or was at any time, one of a child's relatives that is listed
7 8 in the bill, by means of blood relationship, marriage, or
7 9 adoption, or is a spouse of one of the relatives listed in the
7 10 bill. The list of relatives includes siblings, grandparents,
7 11 cousins, aunts, and uncles.

7 12 Under current law in Code section 237A.3, a person or
7 13 program providing child care to five children or fewer at any
7 14 one time is a child care home provider and is not required to
7 15 register under Code section 237A.3A as a child development
7 16 home. The bill repeals Code section 237A.3 and revises the
7 17 definition of registered child development home to mean care
7 18 provided to one or more children. The bill provides an
7 19 exemption to the registration requirement for a relative who
7 20 provides child care to only related children or a person
7 21 providing child care to only children from a single unrelated
7 22 family.

7 23 Code section 237A.5 provisions relating to criminal and
7 24 abuse record checks of child care providers are amended to
7 25 eliminate references to the term "child care home" while
7 26 maintaining requirements for persons who are not required to
7 27 register or license under Code chapter 237A but receive public
7 28 funding for providing child care or individuals who live with
7 29 such persons. Conforming amendments are included to eliminate
7 30 the term "child care home" throughout the Code.

7 31 Code section 237A.13, relating to the state child care
7 32 assistance program, is amended to provide that care under the
7 33 program must be provided by a licensed or registered provider
7 34 unless specifically exempt under the child care definition.

7 35 Code section 237A.19 provides for a simple misdemeanor
8 1 penalty for each day of violation of operating a child
8 2 development home without registering. With the bill's change
8 3 in the number of children receiving child care from a child
8 4 development home, this penalty would apply to a person
8 5 providing care to one or more children without registering as
8 6 a child development home provider. The penalty in Code
8 7 section 237A.19 for a person operating a child care home or
8 8 having involvement with child care when prohibited is stricken
8 9 and the involvement penalty in the stricken subsection is
8 10 moved by the bill to a different subsection.

8 11 Code section 237A.21, relating to the state child care
8 12 advisory council, is amended to remove child care home
8 13 providers from the required membership.

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